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Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the International Commission of Jurists, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11173
1411173

Please recycle

Violations of the right to counsel of Viet Nam human rights defender Le Quoc Quan

The International Commission of Jurists (ICJ) welcomes the report of the Special Rapporteur on human rights defenders, particularly the identification of elements of a safe enabling environment for human rights defenders.

"The existence of laws and provisions at all levels… that protect, support, and empower defenders, and are in compliance with international human rights law and standards" is indeed important. The ICJ has followed the situation of HRDs in Viet Nam, particularly lawyers who have been defending other human rights defenders.

One such lawyer is Le Quoc Quan, who was charged with tax evasion under the Viet Nam Penal Code. His company was ordered to pay allegedly unpaid tax of 645 million VND (approximately USD30,000) and a fine of 1.3 billion VND (approximately USD60,000). The ICJ believes that these charges were opportunistically selected for use against Le Quoc Quan, whose family collectively owns a business, and were in fact motivated by his work as a human rights defender representing victims of discrimination and land confiscation, and for critical views he expressed regarding the government's human rights policies and violations.

Le Quoc Quan's right to counsel has been violated in several ways from the time of his arrest, up to the time he lodged an appeal to his conviction. The violations resulted from an unduly onerous legal requirement for lawyers to apply for a "defence counsel's certificate" or "advocacy certificate" prior to being able to communicate with and defend their clients.

Article 132 of the Constitution of Viet Nam guarantees "the right of the defendant to be defended" and that "the defendant can either conduct his own defence or ask someone else to do it." Article 11 of Viet Nam's Criminal Procedure Code also provides that detainees, accused, and defendants shall have "the right to defend themselves or ask other persons to defend them" and that courts have the duty to ensure that these persons are able to exercise their right to defence.

In each case, however, before representing a client the lawyer must first apply for a "defence counsel's certificate" or "advocacy certificate". Under article 50(3) of the Criminal Procedure Code, a lawyer must file the application with the appropriate investigating body, procuracy, or court, within three days from his receipt of the request from his client to act as his counsel. The requirement is reiterated under the Law on Lawyers, which provides that the certificate shall be "valid during the proceedings" and is a prerequisite for "contacting organisations and individuals to exercise the rights, fulfill the obligations, and do the activities relevant to the advocacy in a criminal lawsuit."[1]

Le Quoc Quan was initially held incommunicado, with no contact with family, lawyers, or friends, for two months. He was arrested on 27 December 2012, but was only able to meet one of his two lawyers for the first time on the last week of February 2013. The authorities claimed they did not immediately grant permission to Le Quoc Quan's lawyers to see him and be present during his interrogation because they had not received any application from them to appear on his behalf. Le Quoc Quan's lawyers however informed the ICJ that they did apply for an advocacy certificate on 10 January 2013, but had received no response from the court.

Le Quoc Quan was therefore subjected to interrogation by the authorities without his lawyers present, indeed without having had access to counsel at all, on three separate occasions: 27 December 2012 (the day of his arrest), 2 January 2013, and 15 January 2013.

Le Quoc Quan was convicted on 2 October 2013. The Criminal Procedure Code allows an appeal to his conviction if filed within 15 days after the date of pronouncement of judgment. Le Quoc Quan was not allowed to communicate with

[1] Article 27(3) Law Amending and Supplementing a Number of Articles on the Law on Lawyers, The Law No. 20/2012/QH13, 20 November 2012 (hereinafter, the Law amending the Law on Lawyers).

his lawyers immediately after his conviction and had to file the appeal on his own. Only "defendants, victims, and their lawful representatives" have the right to appeal decisions of courts of first instance,[2] excluding the lawyers of defendants. It is only after the appeal has been filed and accepted by the appellate court that the convicted person may identify the lawyer of his choice. The chosen lawyer must then file another application for a certificate and wait for the court's approval. Only after this process are defence lawyers recognized and allowed to participate.[3]

Le Quoc Quan, in drafting his appeal, was further forced to rely exclusively on factual points since all legal documents and files pertaining to his case were withheld from him.

The requirement to apply for and obtain from government authorities a certificate in each individual case before a lawyer can act on behalf of a client, as applies in Vietnam, violates the right of an accused person or person deprived of liberty to prompt access to counsel, for instance under articles 9 and 14 of the International Covenant on Civil and Political Rights, to which Viet Nam acceded in 1982. A delay of two months, as in the case of Le Quoc Quan, grossly violates any reasonable measure of "promptness", which is typically understood as a matter of hours or at most a few days.[4]

The requirement to apply for and obtain a "defence counsel's certificate" or "advocacy certificate" also constitutes undue restrictions on the exercise of the legal profession. Governments must ensure that lawyers are able to perform all of their professional functions without hindrance or improper interference.[5] No court shall refuse to recognize the right of a lawyer to appear before it on behalf of his client, unless the lawyer has been disqualified in accordance with domestic law and in conformity with the UN Basic Principles.[6]

It is especially important for the counsel of the accused to be present during interrogations. The UN Special Rapporteur on the Independence of Judges and Lawyers has affirmed that it is necessary for a lawyer to be present during police interrogations "as an important safeguard to protect the rights of the accused."[7] The UN Subcommittee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, has said that the presence of counsel not only deters the police from resorting to ill-treatment or other abuses, "but may also work as a protection for police officers in case they face unfounded allegations of ill-treatment."[8]

The ICJ calls on the Special Rapporteur to reiterate her request to the Government of Viet Nam to extend an invitation to her mandate to undertake a mission to the country.

The ICJ calls on Viet Nam to amend its laws expressly to ensure that anyone deprived of liberty, including human rights defenders, are given access to counsel from the moment of deprivation of liberty or at latest within 24 hours of detention. Viet Nam should also consider including in its laws penalties for law enforcement authorities who do not honour such provisions.

Viet Nam should dispense entirely with the practice of requiring lawyers to obtain from the authorities "defence counsel certificates" or "advocacy certificates" for each client and matter (indeed each step in a particular matter) before they

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[2] Article 231, Viet Nam Criminal Procedure Code.

[3] Article 245(2), Viet Nam Criminal Procedure Code.

[4] E.g. twenty-four hours (*Report of the Special Rapporteur on of the Commission on Human Rights on the question of torture and other cruel, inhuman, or degrading treatment or punishment*, UN Doc. A/57/173 (2002), para. 16); forty-eight hours (Principle 7 of the UN Basic Principles on the Role of Lawyers, welcomed by General Assembly Resolution 45/166 (1998); not more than "a matter of days" (Principle 18(3), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, annexed to General Assembly Resolution 43/173 (1988)).

[5] Principle 16 of the UN Basic Principles on the Role of Lawyers.

[6] Principle 19 of the UN Basic Principles on the Role of Lawyers.

[7] *Report of the UN Special Rapporteur on the independence of judges and lawyers on the question of all persons subjected to any form of detention or imprisonment*, UN Doc. E/CN.4/1998/39/Add.4 (1998), par.47.

[8] *Report of the Visit of the Subcommittee on Prevention of Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment to the Maldives*, UN Doc. CAT/OP/MDV/1 (2009), par. 62.

may communicate with or represent detained or accused persons. Such a requirement unduly impedes the right to counsel of detained or accused persons, including human rights defenders. If such procedures are not entirely eliminated, they must be significantly amended in law and operation such that they cannot in any way delay access of accused and other detained persons to a lawyer of choice, or unduly interfere with a lawyer's effective discharge of his or her professional functions.

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Human Rights Council
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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Written statement* submitted by Friends World Committee for Consultation, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Children of parents sentenced to death or executed: UN developments since the HRC Panel

Friends World Committee for Consultation (Quakers) welcomes the report of the United Nations (UN) High Commissioner for Human Rights providing a 'Summary of the panel discussion on the human rights of children of parents sentenced to the death penalty or executed' held by the Human Rights Council (HRC) in September 20 (A/HRC/25/33). The panel represented a milestone in the UN efforts towards promoting the full enjoyment by *al* children of all the rights enshrined in the Convention on the Rights of the Child, including the right to be protected from all forms of physical or mental violence (Art. 19). It highlighted the devastating impact, including emotional trauma leading to long-term damage to mental health, on children when a parent is accused of a capital crime, impact that begins at the point of arrest and can continue even decades after the execution or the parent's release. Among the areas addressed in interventions in the panel discussion were: best interests of the child, care and assistance, information and access to parents on death row and children of parents facing the death penalty in foreign States.

The recommendations made in the discussion[1] give valuable direction for further much-needed work and attention to this issue, including by UN bodies. In this regard, FWCC (Quakers) encourages prompt implementation of the recommendation for an "expert seminar with United Nations experts and practitioners, in order to investigate the issue further, including a full examination of the applicable human rights framework, to enable all relevant international

1 A/HRC/25/33, paragraphs 30 and 31: "30. ... the panelists emphasized that the best option would be abolishing the death penalty; however, where that was not yet the case, it was important to develop measures to minimize the harm suffered by the children of parents sentenced to death or executed. Some 193 States had ratified the Convention on the Rights of the Child, which sets out the best interests of the child as the primary consideration. All States, by adopting the necessary measures, must ensure that children's rights were taken into consideration during sentencing. The panellists also concurred with various delegations that there was a need for treaty bodies and the Human Rights Council to think more about how the best interest of the child could be evaluated in accordance with the provision of the Convention on the Rights of the Child. Furthermore, the panellists also emphasized that it was necessary to provide support and advice to the remaining parent, caregivers and civil society groups, and there was also a need to involve schools in the issue, as schools were suitable institutions at which children could get significant support.

31. The following recommendations were made for further action by the Human Rights Council and other United Nations human rights entities, including the relevant treaty bodies:

(a) Convene an expert seminar, with United Nations experts and practitioners, in order to investigate the issue further, including a full examination of the applicable human rights framework, to enable all relevant international human rights treaty bodies and special procedures to engage with the issues, as well as to provide guidance to States and other bodies;

(b) Develop further guidance regarding the form of assistance referred to in articles 9 and 20 of the Convention on the Rights of the Child, in particular by the Committee on the Rights of the Child drafting a general comment to elaborate on the issue;

(c) Provide due attention to protection of all children from all forms of violence in the context of the current development of the post-2015 agenda, as this could contribute to social progress and the realization of the Millennium Development Goals;

(d) Conduct further research both to understand the scale of the problem for those affected and the issues that individual children of parents sentenced to death experience; and what States, national human rights institutions, civil society organizations and other stakeholders can do to address challenges in the full enjoyment of the human rights of children whose parents are sentenced to the death penalty or executed;

(e) Call on States that still maintain the death penalty to ensure that the rights of the child to information and last visits or communications, as recognized in Human Rights Council resolution 19/37 on the rights of the child, are effectively protected; return the body of a person executed and any personal effects to the family for burial, without payment by the family, or inform them where the body is buried and allow them reasonable access to that location; immediately end any form of secrecy surrounding the use of the death penalty, and ensure domestic legislation complies with international standards on transparency."

human rights treaty bodies and special procedures to engage with the issues, as well as to provide guidance to States and other bodies".

Developments since the Human Rights Council panel

As the Special Representative on Violence against Children pointed out in her statement for the panel discussion, children of parents sentenced to the death penalty have been invisible in statistics, and in policies and programmes.[2] This invisibility prevents a fuller understanding of the impact that sentencing a parent to death has on children, and of how to ensure their rights, needs and welfare are met so far as is possible in such a situation.

For this reason, FWCC (Quakers) welcomes the increasing consideration of the situation and needs of these children within the Committee on the Rights of the Child (CRC), the Universal Periodic Review (UPR) and the General Assembly (GA). We encourage even greater attention, including with regard to the situation of children of parents on death row in countries with moratoria on executions, and of children of nationals of abolitionist or retentionist countries facing the death penalty in other countries.

The following is an overview of some of the developments in the CRC, the UPR and the GA since the holding of the panel.

Committee on the Rights of the Child

During the review of Kuwait's implementation of the Convention on the Rights of the Child in September 2013, the CRC asked questions on: how the best interests of the child were determined and evaluated in criminal proceedings, especially when sentencing a parent to long imprisonment or death;[3] the number of children of incarcerated parents, sentenced to death or executed;[4] and the availability of images of executions in the media.[5] The CRC followed up in its Concluding Observations by urging Kuwait "to assess and fully take into account the best interests of the child in judicial proceedings where parents are involved and when sentencing parents to death."[6] At the same session, it asked China "whether courts took into account the best interests of the child when imposing the death penalty on a parent."[7]

In its List of issues for India (October 2013) the CRC asked that the State "provide information on measures taken to ensure the prioritisation of the right of the child to have his or her interests taken as a primary consideration in all areas of the legislative, executive and judicature of the State party. In doing so, please provide specific details on measures taken to guarantee this right for children whose parents are involved in criminal proceedings, specifically in sentencing and cases involving capital punishment."[8] In an annex to its report India has informed the CRC of the Government of Rajasthan's "unique Scheme to provide alternative care to children without parental care and support" and that children whose parents have received a life imprisonment or death sentence are among those included in that scheme.[9]

In January 2014, in addition to questions relating to the sentencing and executions of child offenders (individuals convicted of crimes committed under the age of 18)[10], the CRC asked Yemen "what support was provided to children of death row inmates and what measures were taken to ensure that they did not face discrimination as a result of their parents' situation. Were children's best interests taken into account when their parents were sentenced and were death row inmates allowed family visits? Were families given warning of an impending execution? … whether the body of a

2 See A/HRC/25/33, paragraph 8.
3 CRC/C/SR.1819, paragraph 21 , and CRC /C/SR.1820, paragraph 55.
4 CRC /C/SR.1820, paragraph 20.
5 CRC /C/SR.1820, paragraphs 55 and 58 - 60 .
6 See CRC /C/KWT/CO/2, paragraphs 31 and 32.
7 CRC/C/SR.1833, paragraph 21.
8 CRC/C/IND/Q/3-4, paragraph 4.
9 Annex to report CRC/C/IND/3-4, paragraph 16.
10 See CRC/C/SR.1849, paragraphs 16, 22, 24, 26-32, and 38.

person who had been executed was returned to the family and, if so, at whose cost."[11] At the same session, it asked Congo whether the judicial system makes any provisions for children whose parents were on death row or serving lengthy prison sentences, what protection, if any, is afforded to them, and how the best interest is translated in this context.[12]

Universal Periodic Review

At the 17th and 18th sessions of the UPR Working Group Belgium sent Written Questions in Advance to China, Malaysia, Saudi Arabia and Nigeria, and to Afghanistan, Viet Nam and Yemen.[13]

These Written Questions addressed issues such as: the number of individuals on death row; the number of them with children and the number of children affected in this way; the number of death sentences and executions since the previous UPR and how many of the individuals concerned have/had children; about support provided to these children; whether families, including children have the right to visit (or, if unable to visit, to communicate in other ways); whether the visiting/communication regime is the same as that for other prisoners; whether family members have the right to be informed of an execution before it takes place, and if so, how are they informed and what is the notice period; and whether children and other family members of a person sentenced to death have the right to a final meeting before an execution is carried out. Belgium also asked about any foreign nationals among the individuals on death row or executed.

At the 17th session of the UPR Working Group, Croatia recommended that Malaysia "ensure that children without parental care due to parental incarceration or execution are provided for, including with support for physical and mental health."[14]

General Assembly

In its omnibus resolution on the rights of the child, adopted without a vote on 18 December 2013, the GA "acknowledges that a parent's deprivation of liberty, sentencing to death or life imprisonment has a serious impact on children's development, and urge States, in the framework of their national child protection efforts, to provide the assistance and support these children may require."[15]

Recommendations

FWCC (Quakers) reiterates the recommendations made in the joint statement submitted for HRC panel discussion on the human rights of children of parents sentenced to the death penalty or executed.[16] In particular, the recommendation that moratoria extend to the imposition of death sentences, in addition to executions, and are accompanied by commutation of all existing death sentences.

We further recommend:

11 See CRC/C/SR.1849, paragraph 38.

12 See CRC/C/SR.1847, paragraph 58, and http://www.treatybodywebcast.org/tag/congo/#podPressPlayerSpace_4 (last accessed on 12 February 2014).

13 The questions can be found on the relevant UPR country page: http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx .

14 A/HRC/25/10, paragraph 146.185. Malaysia undertook to respond to UPR recommendations no later than the 25th session of the HRC in March 2014.

15 Draft resolution III in A/68/452, which will be issued as GA resolution A/RES/68/147, operative paragraph 57.

16 Submitted on behalf of Child Rights Connect Working Group on Children of Incarcerated Parents, A/HRC/24/NGO/71, 4 September 2013.

- consideration of and action on the recommendations, such as the holding of an expert seminar, that emerged from the HRC panel and compiled in the High Commissioner's report on it;[17]
- that States circulate the High Commissioner's report on the HRC panel to all relevant actors, including parliamentarians, members of the judiciary, national human rights institutions, and relevant governmental and non-governmental bodies with responsibility for children.

We encourage practitioners with experience in working with these children, non-governmental organisations, national human rights institutions, academics and other relevant actors to provide any relevant information to UN bodies, such as the CRC and the UPR.

17 See footnote 1.

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Universal Periodic Review

Written statement* submitted by the International Commission of Jurists, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

UPR recommendations on impunity: Lack of progress in Nepal

1 In 2012, the Government of Nepal adopted a plan to implement the recommendations made during its 2011 Universal Periodic Review (UPR).[1] However, it has failed to take necessary measures to implement these recommendations. In particular, the International Commission of Jurists (ICJ) is concerned about the failure to implement the recommendations for strengthening the National Human Rights Commission (NHRC),[2] drafting of a constitution that is consistent with international legal principles, the protection of human rights,[3] rule of law and the right to effective remedy,[4] the establishment of credible transitional justice measures,[5] and the end of impunity.[6]

2 ICJ is concerned about the independence of the NHRC, as the current legislation removed guarantees contained in the 1997 law, inconsistent with UPR recommendations 106.7 and 106.8. Furthermore, on 16 September 2013, the government allowed the terms of all commissioners to lapse, leaving the commission vacant. The commissioners had drawn attention to the end of their terms months ago and had called on the government to find a solution so the country's national human rights institution would not be left without membership. The government also has failed to implement NHRC recommendations on impunity. The Commission has received 11407 complaints since its establishment in 2001, of which 4510 had been adjudicated as of July 2013. According to the NHRC report, only 14% of its recommendations have been implemented in full, 48% have been implemented partially and 38% have not been implemented at all. Most importantly, NHRC recommendations for prosecution for serious crimes remain totally unimplemented.[7]

3 Despite repeated orders from the courts, including the Supreme Court of Nepal, police routinely refuse to register First Information Reports (FIR) concerning conflict-era cases.[8] For example on 4 October 2013, the Conflict Victims Committee Bardiya attempted to file six cases of extrajudicial killing that allegedly occurred during the conflict. The District Police Office in Bardiya refused to file the cases, contending that incidents that took place during the conflict could only be considered by the Truth and Reconciliation Commission (TRC). This clearly defies the UPR recommendation in relation to effective investigation of human rights violations.

4 The Government of Nepal has not taken any measure to ensure that crimes under international law and other criminal abuses of human rights, including enforced disappearance, torture and other similar ill-treatment, including sexual violence, constitute crimes under domestic law in Nepal.

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[1] The recommendations are contained in Human Rights Council, *Report of the Working Group on the Universal Periodic Review Nepal*, A/HRC/17/5, 8 March 2011.

[2] Recommendations 106.7 and 106.8

[3] Recommendations 106.26, 106.35, 107.5, 107.10, 107.15.

[4] Recommendations 106.3, 106.7, 106.25, 106.38, 107.2, 107.17, 107.24, 108.1, 108.12, 108.15, 108.17, 108.18, 108.19, 108.22, 108.23, 108.26, 108.29.

[5] Recommendations 106.33, 106.34, 106.35, 106.36, 107.25, 108.30.

[6] Recommendations 107.2, 108.24, 108.25.

[7] See 13 years of NHRC, the status of the implementation of the NHRC recommendation, http://www.nhrcnepal.org/nhrc_new/doc/newsletter/13_years_report.pdf

[8] Recommendations 106.37, 107.24, 108.18 and 108.30. Article 116 of the Interim Constitution states that any order issued by the Supreme Court in the course of the hearing of a case shall be binding on the Government of Nepal and all its offices and courts. The Supreme Court's *State Cases Act of Nepal* obliges the Nepal Police to register FIRs immediately if officials receive these petitions either orally or in writing. The failure of the police to register the FIRs, in addition to undermining the independence of the judiciary and administration of justice, results in the failure of Nepal to discharge its obligations to engage the criminal responsibility of persons responsible for serious human rights violations. When FIRs are registered, the police still typically fail to carry out their duty to investigate.

5 Of similar concern is the exclusion of victims of torture and other ill-treatment, including sexual violence, from the definition of "conflict victim". This deprives victims such as Dhaniram Chaudhari and Bhagiram Chaudhari from the forms of victim support they should receive.[9]

6 Nepal has been unwilling establish a credible transitional justice process as required by the UPR recommendations.[10] On 14 March, the President of Nepal approved an Ordinance to establish a "Commission on Investigation of Disappeared Persons, Truth and Reconciliation 2069 (2013)." Victims and civil society organizations, with the assistance of ICJ lawyers, subsequently filed two separate writs on 24 March 2013, challenging the constitutionality of the Ordinance, and its consistency with international law, before the Supreme Court. On 2 January 2014, the Supreme Court declared the Ordinance on TRC void on the ground of its inconsistency with the Interim Constitution and international law. It issued a Mandamus to the State of Nepal ordering the following:

- To form two separate transitional justice commissions: a "Truth and Reconciliation Commission" and a "Commission of Inquiry on Enforced Disappeared Persons;"[11]
- To criminalize enforced disappearances and other serious crimes;
- To ensure that there is no amnesty provision for serious crimes in the formation of the two separate commissions, among the various provisions;
- To repeal the 35-day statute of limitations for prosecution;
- To ensure that legal arrangements for the Commissions fully comply with international standards, including in particular a vetting process to guarantee the impartiality of the commission members and to ensure that only individuals who were not involved in the conflict and who do not have any record of human rights violations will be selected;
- To amend or reform the Ordinance or draft new legislation with the assistance of an expert team (consisting of conflict experts, organizations representing victims' interests, human rights law experts and interested stakeholders), in order to prescribe standards and procedures in relation to amnesty;
- To arrange for the necessary legal and institutional measures for effective victim and witness protection mechanisms; and
- To make any other necessary legal, administrative, institutional or other required arrangements for a reparations program.

7 On 27 January 2014 the Government reintroduced the Ordinance, with no amendments, in the meeting of the Legislative-Parliament. This directly contravened the Supreme Court orders and UPR recommendation. This also further demonstrates the failure of executive authorities to respect and implement judicial decisions.[12]

8 The failure of Nepal to move forward with implementation of the UPR Recommendations is evidence of an abnegation of the rule of law, accountability, and the rights of victims in Nepal. Without immediate measures, Nepal, at its 2015 Universal Periodic Review, will be unable to demonstrate any substantial progress on the recommendations from its 2011 review. To end Nepal's failures to respect and ensure the rule of law, accountability and the rights of victims, and to avoid a serious setback for Nepal's standing at the Council, the ICJ calls on Nepal urgently:

a to ensure the immediate launch and speedy progress of effective and impartial investigations into all allegations of extrajudicial killing by the security

[9] See ongoing case in the Supreme Court, *Dhaniram Chaudhari v Government of Nepal*, Chaudhari is from the Bardiya District and is not currently receiving any form of government help or assistance due to the limited nature of the guidelines for the victims of torture in conflict and the definition of torture.

[10] Recommendations 106.34, 106.35, 106.36 , 106.37 and 106.38.

[11] Recommendations 106.33, 106.34 and 107.25.

[12] Recommendation 106.38.

forces and by the Maoists during the armed conflict, capable of bringing those responsible to justice in fair trials;[13]

b to ensure that the Government fully implements the Supreme Court decision of 2 January 2014, which orders the Government (among other things) to establish two separate commissions of inquiry;

c to ensure that all crimes under international law and other criminal abuses of human rights, including torture and similar ill-treatment (which includes rape and other sexual violence), and enforced disappearance, constitute criminal offences under Nepalese law;

d to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and accede to the Rome Statute of the International Criminal Court (ICC);[14]

e to invite and make all speedy and practical arrangements for interested mandates of the Human Rights Council to visit Nepal, including the follow-up visit of the Working Group on Enforced and Involuntary Disappearances, the Special Rapporteur on torture and the Special Rapporteur on extrajudicial, summary or arbitrary execution[15] and the Special Rapporteur on promotion of truth, justice, reparation and guarantees of non-recurrence.

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[13] Recommendations 106.35, 108.24 and 108.25.
[14] Recommendation 108.1.
[15] Recommendation 108.19.

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Human Rights Council
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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Asia: Accountability for violence against women committed in official capacities and integration of gender-perspectives in the remedy mechanism

1. Throughout South and East Asian countries women continue to be subjected to unrestrained discrimination and violence. This includes verbal offences and intimidation, harassment, rape and sexual abuse, beating, and torture and ill treatment, perpetrated by police officers, soldiers, members of security forces, and other state actors.

2. The modalities through which such abuses occur may vary depending on the country's specific circumstances. However, it is possible to identify two major trends: 1) Violence deliberately committed by military and paramilitary forces through targeted attacks, and 2) Violence committed against female complainants or detainees while on duty, mainly by police constables and guards in penitentiaries and police stations.

3. In both scenarios, all government agents involved prove to be far from complying with international standards, and trends of significant impunity are shared throughout the region.

4. In Myanmar, despite the election of a nominally civilian government in 2010, numerous cases of rape and gang-rape by the Burmese Army have been confirmed. In particular, rape has been and is still being used by the military as a tool of warfare and oppression against ethnic minorities concentrated in the northeast of the country. Such ongoing crimes of sexual violence are perpetrated even against minor girls and pregnant women. They are not isolated episodes but rather planned offensive acts for which military perpetrators systematically evade prosecution.

5. In Balochistan, the largest province of Pakistan, the "war on terror" has increased the activities of several military and paramilitary forces, including the Frontier Corps (FC), and intelligence agencies. The large number of arbitrary arrests and illegal detentions occurring in the so called "disturbed areas" also includes women who have been unjustifiably arrested and sexually abused to obtain confessional statements about suspected Balochi nationalists. It is known that several women have been arrested and kept in secret cells, forced to serve as sex slaves for the militants, while others are harassed and threatened during village raids and other military operations.

6. A shared aspect among Asian countries is the limited safety and security for women. Throughout South and Southeast Asia torture in custody and detention is rampant. It is a widespread practice of abuse of power perpetrated in an official capacity and mainly aimed at extorting confessions. Imprisoned women and women temporarily in custody for interrogation are more exposed than men to the risk of being tortured by means of sexual abuse by prison and police personnel, who are men in the great majority. Both the abuse they commit and the impunity they enjoy are sanctioned by their government.

7. Violence against women is also an alarming component of the complaints registration system. Women who intend to report an offence, whether it is rape, domestic violence, verbal or physical assault, are very unlikely to find meaningful assistance (many times they are even forced to withdraw their complaints) or they are often laughed at by police staff that discriminate against women as inferior citizens and minimise the gravity of the offences committed against them. It is not rare that women who go to a police station to file a complaint are not only denied professional assistance, but are even further harassed by police agents who may abuse them verbally and physically and who therefore exacerbate the violence committed in the first place.

8. The civilian policing system throughout the continent appears dysfunctional. With regards to women, it heavily replicates those patterns of gender inequality, patriarchal mindsets and structural violence that pervade the Asian societies. The problem, therefore, goes beyond the limited capacity of guaranteeing basic discipline and professionalism within law enforcement agencies. Besides the lack of concern about possible disciplinary actions due to misbehaviour, what fosters violence is primarily the gender-based discrimination which derives from society and which results in the largely condoned demeaning and abusive attitudes towards girls and

women. Structural violence infiltrates state agencies which become responsible for institutionalised abuses, to then reflect back to society and nourish the circle of violence where women are one of the sectors suffering the most. The cast categorisation of society typical of the subcontinent, together with poverty and low-social status featuring a large portion of the population in South and East Asia, represent added factors which further expose women to the risk of violence and the denial of protection.

9. The necessary reform of the policing systems in many Asian countries needs to be comprehensive and include higher gender sensitisation. A policy of gender integration, which would see more female police personnel "on board", may help in decreasing risks for both women who are convicted or interrogated, and women who want to report abuse. However, instances of women police officers who participate with their male colleagues in harassment and violence suggest that police reform should also adopt a more holistic strategy of gender mainstreaming.

10. Integrating gender perspectives in conducts, policies, guidelines and structures at all levels, and understanding in particular women's constraints and disadvantages related to socio-cultural norms, would ensure greater protection and equal assistance. Having more police women is desirable, however insufficient to guarantee fairness and to make sure that violence against women perpetrated by state agents will be eradicated. Besides, the hiring of more women into police and army forces would be a direct consequence of national polices and societal propensity towards equal opportunities and balanced access to resources shared among the population. Gender mainstreaming, therefore, may become one of the valid strategies to meet the needs of effective police reforms within the regional context.

11. In the majority of Asian countries, States have failed to prevent abuses on a large scale, protect women who have been victims of violence, and bring perpetrators to justice, whether they are offenders from the private sphere, the profit sector, civil society or government bodies. Addressing the complex problem of rape and other forms of violence against women requires legal reforms, but especially a sustained commitment by the authorities aimed at ensuring that the criminal justice system responds effectively and at all levels.

12. There is documented evidence that every process in the administration of the justice system, from making a complaint and instituting a trial in a court to receiving redress or compensation, is perforated with bureaucratic inefficiencies, under-funding, bribes taking and corruption, and is open to widespread political influence and infiltration by non-state actors, thereby impeding the ability of the civilian justice system to deliver justice independently and effectively. In cases of violence against women, such faults are worsened by discrimination, disrespect and other negative attitudes towards women that make the entire mechanism profoundly gender-biased and create enormous difficulties for survivors to obtain justice. Whilst the dysfunctions of state apparatuses impact the entire population and affect the diffuse distrust that citizens place in the institutions of their countries, women are the ones that suffer the greatest harm as a combined result of the flaws of the judicial system and its lack of gender-perspectives. The "culture of blame" which leads to pointing the finger against rape survivors (who consequently suffer the burden of an enormous social stigma), oftentimes influences the way even judges, especially from the lower courts, handle cases of sexual assault. Greater gender-sensitisation, therefore, is required also in the administration of the judiciary through training and raising-awareness workshops which can adjust gender imbalances in both procedures and verdicts.

13. Asian States are required to develop and implement effective and comprehensive inter-disciplinary plans of action to prevent violence against women, address the variety of its forms and its occurrence in several contexts, and pave the way for an effective implementation of the law and an adequate functioning of the redress mechanism. In fact, in most Asian countries, the main problem is not caused by the lack of relatively good laws, but rather by the failure to implement them consistently with a particular concern of the circumstances and the impacts that different offences have on different people. Furthermore, given the fact that the great majority of Asian countries have signed and ratified CEDAW, State are obliged to exercise due diligence in ensuring that non-State actors, such as armed factions, private security contractors, rebels, and other insurgent groups are also held fully accountable for crimes they commit against women.

14. While welcoming the comprehensive work of the Special Rapporteur on violence against women, its causes and consequences and the possible broadening of her focus on forms of institutionalised gender-based violence, in order to effectively eradicate violence against women and the rampant impunity related to it particularly in the Asian region, the ALRC requests the Human Rights Council to call upon the governments of Asian countries to;

a. Recognise and condemn all acts of violence against women and girls, whether these acts are perpetrated by the State, private persons or non-State actors;

b. Conduct gender assessments ascertaining specific gaps and gender related needs among their institutions, particularly the police, the army and the judiciary, in order to promote engagement and understanding among their representatives, while also building their technical capacity, which is critical to successful gender-mainstreaming;

c. Demonstrate a stronger political will and adopt a methodology for analysis and reform of its law enforcement agencies aimed at ensuring that gender concerns are incorporated in the implementation of codes of conduct, as well as in the internal monitoring and work evaluation of practices and attitudes assumed by police personnel and other government officials, and;

d. Demand accountability for the implementation of gender equality dimensions of national laws, policies, conducts and strategies, and harsh punishment for any form of abuse or violence perpetuated on women in any official capacity.

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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Bangladesh: Human rights activism at serious risk

1. The Asian Legal Resource Centre (ALRC) wishes to bring the situation of human rights defenders of Bangladesh to the attention of the UN Human Rights Council. The Government of Bangladesh has been denying opportunity for the human rights activism in the country. Systematic denial of the rights to defend human rights continues to silence constructively critical voices. As a result, the Human Rights Defenders of Bangladesh are in serious danger at this moment in the country's history of human rights activism. The notion of protection hardly exists in Bangladesh as far as victims of gross human rights abuses are concerned. Now, the Human Rights Defenders and civil society organisations have been made specific targets by the government.

2. The Government protects the perpetrators of gross human rights abuses through a deeply rooted culture of blatant impunity at the costs of the lives and liberties of the citizens. The State prevents the basic institutions from functioning as a means of protecting the people. Instead, the incumbent government uses all their institutions, including the judiciary, as tools to secure its power at the cost of the lives and liberties of the ordinary people.

3. For example, the situation of Odhikar, a Bangladesh-based human rights organisation, which has special consultative status of the ECOSOC of the UN, and the human rights defenders associated with that organisation are facing continued repression by the government. Odhikar emerged as one of rights groups that remained actively critical during successive governments since its inception 19 years ago. Since the Universal Periodic Review mechanism of the UN Human Rights Council started reviewing the rights situation of countries, Odhikar, jointly with the ALRC and other internationally reputed human rights organisations, contributed to the UPR process in 2009 and in 2013. Additionally, this rights body constantly brought to light the cases and pattern of extrajudicial execution, enforced disappearance, custodial torture, limits to freedom of expression and opinion, and denial of justice to the victims of gross human rights abuses in Bangladesh, among several other important issues under the category of civil and political rights.

4. The government of Bangladesh accused Odhikar for tarnishing the "image" of the law-enforcement agencies since the organisation published a fact-finding report challenging the authority's version of a "zero-casualty" overnight massive crackdown against the demonstrators of a non-political Islamist group, Hefazat-E-Islam, on May 5 and 6, 2013. More than ten thousand paramilitary and police personnel with heavy weapons started the crackdown after switching off the electricity supply in the entire area surrounding Shapla Chattar in Dhaka. There have been allegation of numerous deaths and injuries of persons in the overnight incidents that, similarly, almost denied the media proper access to monitor the operation. Two private TV channels were instantly shut down by the government in the early hours of May 6 for broadcasting the footage of the crackdown. Odhikar claimed in its fact-finding report that 61 persons were killed in the incidents. They demanded that an independent probe commission headed by a Supreme Court judge be constituted for investigating the allegations of countless deaths. However, the government rejected such demands of Odhikar and other civil society organisations. Instead, the government insisted Odhikar provide the detailed identities of the victims and their family to the government. Concerned for the safety of the affected families, due to the prevalent practice of further harassment, as an established pattern maintained by Bangladeshi law-enforcing agencies to harass the victims and families for speaking out about their plights, Odhikar declined to share the particulars but assured that if any independent probe commission is formed to credibly investigate matters, they would provide all necessary information to the probe commission once the protection of the victims and witnesses are guaranteed. Consequently, the government started harassing the human rights defenders associated with this organisation. The government arrested Odhikar's secretary Adilur Rahman Khan and director ASM Nasiruddin Elan, who were detained in prison for 62 and 27 days, respectively, for fabricated case. These two prominent human rights defenders have been charged under the Information and Communication Technology Act, 2006 for tarnishing image of the government through releasing fact-finding report.

5. The government is using the Anti-Corruption Commission (ACC) and the NGO Affairs Bureau (NGO-AB), which is under the direct control of the Office of the Prime Minister, to harass Odhikar and their rights activists by fabricating cases of corruption. The ACC secretly registered a case of "'money laundering" against Odhikar's secretary and director in July 2013, was revealed to the alleged defendants when the ACC called Adilur and Elan and forced to give statement under Section 161 of the Code of Criminal Procedure, 1898, on 22 January 2014. The ACC also kept the pro-government TV channels ready at their office allegedly for "holding media trials" against the human rights

defenders. At the time of drafting this Written Submission, the NGO-AB officials were frequently visiting the office of Odhikar almost every day, interrogating the staffs and checking and collecting copies of documents from the Odhikar's office. Without any reasonable grounds, the NGO-AB is insisting Odhikar provide the personal particulars of the human rights defenders across the country associated with the organisation. The human rights defenders, who are publicly known as activists of Odhikar, have been facing harassment by the intelligence agencies in different districts of Bangladesh. It should be noted with great concerns that the relevant banks stopped disbursing the funds of projects that Odhikar was implementing, with support from international development partners, due to interventions by the government.

6. Simultaneously, the government has been conducting continuous surveillance for months on the human rights defenders and their family members of all age. Normally, two plain clothed persons with a motorbike wait in front of the gate of the office of Odhikar's office building where Adilur Rahman Khan resides on one of the floors. The bikers sometimes show pistols to threaten the visitors and staff that commute to and from the building. The bikers chase the vehicles carrying Adilur, his family members, and colleagues both on the streets and at places they visit for professional or academic purposes. Plain clothed persons claiming to be police officers or from the intelligence agencies insist the car drivers of Adilur's family and the security guards of the building report the whereabouts and movements of Adilur and his colleagues, with threats of bodily harm if anyone refuses cooperating with the agencies.

7. Odhikar is neither the first nor the only victim of governmental persecution in Bangladesh, though they are facing it right at this moment. Several other human rights defenders have been physically attacked. For example: Mr. Shahed Kayes, an educationist and environmental rights activist, who is the founder of Subornogram Foundation, was assaulted on 25 July 2013, after he was kidnapped by the musclemen of the ruling party's parliamentarians. Mr. Shahed was a target of assassination for helping the inhabitants of Mayadip and Nunertek islands to stand against the ongoing illegal sand-mining in the Meghan River in Sonargaon sub-district in Narayanganj district. He survived the attempt due to immediate interventions by journalists and human rights defenders who insisted the police take prompt action to rescue him. He had his neck, chest, and wrist cut by the kidnappers. The ruling party parliamentarians and politicians were the direct beneficiaries of the illegal sand-mining. It put more than ten thousand poor people at risk of losing their shelters and livelihoods due to large-scale landslides and erosion damaging agricultural lands. The ruling party leaders have been investing their efforts to ensure impunity for the perpetrators by dropping charge of the attempted murder case registered by Shahed. After registering the complaint, Mr. Shahed Kayes is now hiding to save his life amidst continuous threats from the ruling party parliamentarians and minister while Subornogram Foundation, as an organisation, is facing operational problems without the active presence of its key leaders in the areas of educating underprivileged *dalit* and fisher-folk communities. The activists who protested against the illegal sand-mining have been facing fabricated cases against them by the sand-miners' musclemen. The police have been acting in order to facilitate benefits to the perpetrators due to their association with the ruling party.

8. A number of reputed mainstream human rights organisations, and iconic human rights defenders, have been maintaining "friendly" relationships with the government either for political ideologies or for avoiding confrontation fearing the consequences that Odhikar, Subornogram Foundation and other organisations have been facing. Some organisations have switched their role from independent human rights bodies to pro-government advocates. Often delegations of such pro-government human rights organisations actively participate in the Council's Sessions and side events to give an impression to the international community that the situation of Bangladesh is not too bad as portrayed, for the purpose of maintaining alliance with the incumbent government. Such pro-government association of human rights organisations is contributing to the insecurity of the independent human rights activism in the country.

9. The government of Bangladesh has acquired the characteristics of authoritarian rule. The entire entity of the state itself fails to function beyond the wishes of the Prime Minister, who possesses almost all power as the head of the government, leader of the parliament, and head of the ruling political party. The officials of the government including the ministers literally nod their heads to satisfy the Prime Minister's personal wish and interpretation. The same culture is nourished in the political parties in Bangladesh for decades. So, it does not matter which party is in power. The government is more interested in keeping control over law-enforcement agencies that are systematically used against the people at large. By doing so, the government successfully intimidates the other institutions that are supposed to function independently, followed by weakening those institutions in terms of merit, human and financial resources, infrastructure, and mindsets of the relevant professionals.

10. The institutional system functions according to the arbitrary demands replacing universal normative principles of justice and governance as far as Bangladesh is concerned. As a result, all the basic institutions constantly fail to act for the purpose of upholding the rule of law in the society. The institutions, including the judiciary and the entire criminal justice apparatus, survive as facades. These facades facilitate the process of silencing society's vibrant voices. One who observes the behaviour and practice in terms of quality, content, intent of the media, and a segment of the civil society organisations of Bangladesh can easily realise that there are fundamental problems deeply rooted in the country. The number of truth-tellers is reducing gradually due to the absence of space and minimum guarantee of survival with human dignity. Those who wish, or dare, to expose the truth have to continuously consider the possible consequences before doing so. Impunity for state-orchestrated violence is guaranteed as a matter of fact.

11. The ALRC urges the Human Rights Council to insist that the independent experts and mandate-holders continue reminding the government of Bangladesh that letters of invitation that have been requested to the government authorities. The ALRC also urges the government of Bangladesh to respond to those pending requests without further delay. In addition, the ALRC request Special Rapporteurs in particular on Independence of Judges and Lawyers; Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; Extrajudicial and Summary Executions; Freedom of Expression and Opinion; Situation of Human Rights Defenders; and Working Group on Enforced and Involuntary Disappearance to carry out their country visits and report back to the Council. The human rights defenders and organisations that sincerely wish to generate discourse of the issues of justice and protection from torture and other forms of gross abuses of human rights deserve prompt attention from the international community. The rights of life, liberty, and livelihood of the people cannot be negated. The UN Human Rights mechanism and its various human rights bodies should actively concentrate more on the situation of Bangladesh. The people long for rescue efforts from a suffocating situation.

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Bangladesh: Endemic torture continues despite enactment of anti-torture law

1. It is not new to the international community that torture is endemic in Bangladesh. It may be surprising to know that torture has been finally criminalized there. On 24 October 2013 the Torture and Custodial Death (Prohibition) Bill, 2013, was enacted by the parliament. The people of Bangladesh achieved this law at the costs of a very high price for decades. Hundreds of people had been tortured to death since the independence of Bangladesh while tens of thousands of people sustain torture every year in the hands of the police, paramilitary forces, armed forces as well as the intelligence agencies. Continuous pressures from the local and international human rights groups also contributed to final outcome, through the enactment, since the Bill was tabled four years ago, on 10 September 2009, in the Parliamentary Session. The ninth Parliament passed the law in one of its concluding Sessions, before it was supposed to complete its tenure.

2. The Asian Legal Resource Centre's (ALRC) sister organization the Asian Human Rights Commission (AHRC) drafted the Torture and Custodial Death (Prohibition) Bill in 2009 in compliance with Convention Against Torture (CAT) responding to a call from Bangladesh's parliamentarian Mr. Saber Hossain Chowdhury. The ALRC and AHRC continuously campaigned inside Bangladesh and internationally seeking the enactment of the law against torture since the Bill was drafted.

3. The prevalence of torture in its entirety and brutality in Bangladesh is worse ever at the moment. Besides the systemic practice of physical torture inside the police cells, interrogation cells, and camps of the paramilitary forces there are secret torture cells. The Rapid Action Battalion (RAB), the Directorate General of Forces Intelligence (DGFI), the National Security Intelligence (NSI), the Detective Branch (DB) and the Criminal Investigation Department (CID) of the Bangladesh Police maintain these torture cells for torturing people keeping them in prolonged detention. The records regarding such detentions of persons are never shared with anyone and accessible to the people. It is only known when few detainees are released following persuasions and pressures from high-level political portfolios.

4. The government has formed a Joint Force comprising the Police, the Rapid Action Battalion (RAB), and the Border Guards Bangladesh (BGB) to operate crackdown on the opposition parties. Numerous people are facing torture and various forms of atrocities, including rape, at nights when the Joint Force is attacking in the houses of the pro-opposition leaders, activists and supporters in different parts of Bangladesh. The screams of the countless victims are being adequately heard as the media is fully under the governmental control, followed by self-censorships. A large number of people are being inflicted by torture outside the police stations or camps of the paramilitary and security forces due to the ongoing crackdowns of the Joint Force. The recent trends include, bulldozing the houses and business establishments of the opposition activists, and shooting on legs of the detainees in the police custody leading to permanent disability of persons.

5. The government has recently increased facilities of the police by paying more incentives, rations, and empowering the ranks and authorities of police officers. The authorities are also going to recruit fifty thousand more personnel to the police, which will reduce the ratio gap between the people and the police in the government. This development could have been a unique opportunity for changing the police's torturous behaviour and practice since the anti-torture law is in place. Regrettably, the government, which has just renewed its tenure through a fake parliamentary election, is abusing this opportunity to recruit allegedly their party cadres aiming to drive away the opposition.

6. The enactment of the anti-torture law has been an opportunity for seeking, and administering justice in the incidents of torture and custodial deaths. The law has not been used by any segment of the society to change behaviour, attitudes and the system of the police and other law-enforcement agents or security forces. In last four months there has been no initiative from the Government of Bangladesh encouraging the people to use the law. The government or the Parliament has not initiated any specific programmes to monitor the custodies of the law-enforcing agencies and security forces where torture takes place routinely. There has been no attempt from any public institution to promote the anti-torture law in last four months. The ALRC has not yet found any single case has been registered or investigated applying the provisions of the Torture and Custodial Death (Prohibition) Act, 2013. Preventing this heinous crime or ensuring justice to the victims of torture and custodial death has been put into practice.

7. The absence of implementation process of the anti-torture law reflects the government's unwillingness to end the torturous system, which provides political benefits to the ruling parties in Bangladeshi political culture. As a matter of fact, all the law-enforcement agencies and paramilitary forces routinely commit torture, as usual. Tens of thousands of citizens are being inflicted by torture across the country every day without any possibility of getting justice.

8. Bangladesh's National Human Rights Commission (NHRC) has not initiated any visible programme to address the torture-prone problems since this national institution's inception in 2008. The NHRC continues its visionless activities as usual, which is exposed once again since the NHRC has been maintaining cluelessness regarding the anti-torture law. The human rights groups based in Bangladesh have been keeping silence instead of campaigning for implementing and utilizing the anti-torture law. Many rights organizations discuss the issue of torture occasionally, on 26 June and 10 December, to celebrate the special days as far as their foreign funded projects allocates money to spend for those events. Most of the rights NGOs are rather busy with hunting projects and money from potential funding partners. By keeping up certain NGO-activities the leaders, most whom are rather known to be the owners of their respective organizations, engage themselves in promoting the political agenda of their preferred parties.

9. Amidst the partisan polarization of the human rights and civil society groups the urgently required discourse for institutional reforms, particularly reforming the torturous policing system, is absent. The entire criminal justice system, including the complaint mechanism, criminal investigation, forensic examination, prosecution and the legal profession, is incapable of comprehending the multi-dimensional problems created by the torturous policing system that are directly connected to the country's political culture as well. The ruling political parties always sit on the cockpit of propelling the police at their wish. The opposition activists and critiques of the government are targeted while the police are expected to use torture, fabricating of cases followed by illegal arrest and arbitrary detention against the targets.

10. The state agencies do not spare any professionals such as journalists, lawyers, university teachers and researchers. Regardless of professional identity, whenever any person expresses critical views or exposes any research-based documentation or publishes any book regarding the on going human rights abuses the person becomes a prey. Intelligence surveillance becomes integral part of their life. Unidentified persons' phone calls with intimidations, threats, followed by systematic interrogations in known and unknown places, cripple their personal and professional life and liberty that amount to psychological torture.

11. The ALRC has verified such allegations with a number of prominent citizens who have asserted that intelligence surveillance and threats have been part of their life. Some academic scholars have confirmed to the ALRC that their family members including spouse and children have also been receiving threatening phone calls and unknown persons chasing their vehicles when the children and spouse commute to and from home for professional and academic activities. Officers of intelligence agencies visit to the office and house of the professionals, often at late nights. These late-night-visitors always visit in team comprising at least two male persons; one of them introduce himself and his colleague with a short name and name of the agency they work while the other member of the team stares at the person with cruel eyes without pronouncing any word during the entire session lasting around 40 minutes. These teams always give impression that they know much about person they were visiting, by sharing certain exclusive information that only few closely related persons are aware of. They abruptly accuse the person (being visited) about one or several actions that the person literally did not have any relation to. However, they do not entertain any supplementary question about their purpose and reasons behind such surveillance with the excuse of 'official secrecy'.

12. There is no available and affordable remedy for the prevalent denial of rights to personal liberty. Given condition of Bangladesh is grave. Torture is in the centre, along with numerous other systematic methods, to silence the entire society. The ongoing stifle urgently needs to be addressed.

13. The ALRC urges the Human Rights Council to take up the issue of Bangladesh as a priority. The prevailing situation deserves urgent attention from the international community. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; in particular, and other independent experts especially, the Special Rapporteurs on extra-judicial, summary or arbitrary executions; on freedom of expression and opinion; on situation of human rights defenders; and on independence of judges and lawyers should take this up as a priority in Bangladesh. Given the fact that some of their requests to visit the country have yet to be answered, the ALRC requests the Council to remind and urge the government of Bangladesh to respond to them. In addition, it also urges that the government of Bangladesh to engage in constructive collaboration with the Special Procedures. The ALRC urges the Human Rights

Council to develop an effective binding mechanism to make the theoretical rights affordable in the real life of the people in countries like Bangladesh. The government of Bangladesh should not be allowed to enjoy impunity, which the government provides to the state perpetrators of violations of human rights.